

**MINUTES  
BOARD OF ADJUSTMENT  
CITY HALL COUNCIL CHAMBERS  
116 W. NEEDLES AVE.  
BIXBY, OK 74008  
February 02, 2015 6:00 PM**

In accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Section 311, the agenda for this meeting was posted on the bulletin board in the lobby of City Hall, 116 W. Needles Ave., Bixby, Oklahoma on the date and time as posted thereon, a copy of which is on file and available for public inspection, which date and time was at least twenty-four (24) hours prior to the meeting, excluding Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

**STAFF PRESENT:**

Erik Enyart, AICP, City Planner  
Patrick Boulden, Esq., City Attorney

**ATTENDING:**

Rebecca Coffee  
Fred Keas  
See attached Sign-in Sheet

**CALL TO ORDER**

Meeting called to order by Chair Jeff Wilson at 6:00 PM.

**ROLL CALL**

Members Present: Jeff Wilson, JR Donelson, Larry Whiteley, Murray King, and Darrell Mullins.

Members Absent: None.

**MINUTES**

- 1 Approval of Minutes for November 03, 2014

Chair Jeff Wilson introduced the item and made a MOTION to APPROVE the Minutes of November 03, 2014 as presented by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

**ROLL CALL:**

AYE: King, Wilson, Whiteley, Donelson, & Mullins  
NAY: None.  
ABSTAIN: None.  
MOTION CARRIED: 5:0:0

## OLD BUSINESS

Chair Jeff Wilson asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

## NEW BUSINESS

2. **BBOA-597 – Rebecca Coffee for Dorothy L. Biggers Trust.** Discussion and possible action to approve a Variance from certain bulk and area requirements in the AG Agricultural District to allow for a Lot-Split for property in the NE/4 of Section 21, T17N, R13E.  
Property located: 15400 S. Yale Ave.

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Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

**To:** Bixby Board of Adjustment  
**From:** Erik Enyart, AICP, City Planner  
**Date:** Wednesday, January 28, 2015  
**RE:** Report and Recommendations for:  
BBOA-597 – Rebecca Coffee for Dorothy L. Biggers Trust

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**LOCATION:** – 15400 S. Yale Ave.  
– Part of the NE/4 of Section 21, T17N, R13E

**LOT SIZE:** 139 acres, more or less

**ZONING:** AG Agricultural District & CS Commercial Shopping Center District

**SUPPLEMENTAL ZONING:** Corridor Appearance District (partial)

**EXISTING USE:** Agricultural land and a single-family dwelling

**REQUEST:** Variance from certain bulk and area requirements in the AG Agricultural District to allow for a Lot-Split for property in the NE/4 of Section 21, T17N, R13E

**SURROUNDING ZONING AND LAND USE:**

**North:** (across 151<sup>st</sup> St. S.) AG, CS, RD, RS-3, OL, OM, and IL, with PUDs 3, 12, 12-D, and 55; To the northwest is agricultural and vacant/wooded land in PUD 12-D with multiple zoning classifications and the 300'-wide AEP-PSO overland transmission powerline right-of-way zoned AG, partially unplatted and partially within Sitrin Center Addition; to the north is vacant/wooded land along the west side of Kimberly-Clark Pl. zoned CS, OL, OM, and IL with PUD 12; to the north on the east side of Kimberly-Clark Pl. is vacant land zoned CS and RD/RS-3/PUD 3 in Sitrin Center Addition, the The Auberge' Village residential subdivision zoned RS-3 with PUD 55, and the White Hawk Golf Villas residential subdivision zoned RS-3 with PUD 3; to the northeast across Yale Ave. is a commercial building and vacant commercial lots in Hendrix Business Park zoned CS and OM with PUD 3 and vacant land and the White Hawk Golf Club zoned OM, RM-2, and RS-3 with PUD 3.

**South:** AG; 160-acres of agricultural land, the SE/4 of this section, zoned AG.

**East:** (across Yale Ave.) AG, CG, OM, RM-3, RE, & AG; The 150-acre Lutheran Church Extension Fund-Missouri Synod agricultural tract to the zoned CG, OM, RM-3, and RE and rural residential to the southeast zoned AG.

**West:** AG, RS-2, RD, CS, and CS/PUD 41; The 300'-wide AEP-PSO overland transmission powerline right-of-way zoned AG, an 8-acre agricultural tract zoned CS with PUD 41, the New Beginnings Baptist Church on 16.8 acres zoned AG, and agricultural, vacant/wooded land, and rural residential zoned RS-2, AG, CS, & RD.

COMPREHENSIVE PLAN: Corridor + Development Sensitive + Water + Community Trail + Vacant, Agricultural, Rural Residences, and Open Land

PREVIOUS/RELATED CASES:

BZ-162 – J.C. Biggers – Request for rezoning from AG to CS for the NE/4 NE/4 NE/4 of this section, consisting of the northeast approximately 10 acres of subject property – PC recommended Approval 04/29/1985 and City Council Approved 05/14/1985 (Ord. # 528).

RELEVANT AREA CASE HISTORY:

BACKGROUND INFORMATION:

Per BL-396, the owner is seeking Lot-Split approval to separate approximately 2.09 acres with the existing dwelling addressed 15400 S. Yale Ave. from the balance of the agricultural tract. The proposed tract does not meet the minimum land area requirements, and potentially other bulk and area standards of the existing AG district. The buyer of the smaller tract does not want the zoning changed, such as to a Residential district that would allow for the Lot-Split to be approvable. The buyer and seller are seeking a Variance from the bulk and area standards in the AG district to allow the Lot-Split to be approved. The Planning Commission Continued the Lot-Split from the January 20, 2015 meeting to the February 17, 2015 meeting, pending the disposition of BBOA-597.

ANALYSIS:

Subject Property Conditions. The subject property consists of the NE/4 of Section 21, T17N, R13E, Less & Except right-of-way and other tracts sold. It contains 139 acres, more or less, and is zoned AG Agricultural District, except for the NE/4 NE/4 NE/4, approximately 10 acres, which is zoned CS Commercial Shopping Center District. It contains a house addressed 15400 S. Yale Ave. It contains branches of an upstream tributary to Posey Creek along its westerly side, and generally slopes downward and drains to the west toward same. It also contains a few farm ponds, an AEP-PSO overhead electric transmission line, fences, and miscellaneous farm and oil extraction structures.

Tests and Standard for Granting Variance. Oklahoma State Statutes Title 11 Section 44.107 and Bixby Zoning Code Section 11-4-8.A and .C together provide the following generalized tests and standards for the granting of Variance:

- Unnecessary Hardship.
- Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
- Finding of No Substantial Detriment or Impairment.
- Variance would be Minimum Necessary.

Nature of Variance. The Applicant is requesting a Variance from certain bulk and area requirements of the AG Agricultural District to allow for a Lot-Split. Per statements from the Applicant, Staff understands that the intent of the Lot-Split would be to allow for the sale of the proposed 2.09-acre tract with the existing dwelling, which the application states will be used for “AG / residence.” Per the submitted drawing and the Applicant’s statements, the proposed 2.09-acre tract would not meet the 2.2-acre minimum land area requirement of the AG district. Staff has not yet received the survey for the Lot-Split, and these area and so this estimated acreage may change upon the completion of the survey. It is also possible that there would be other bulk and area standards which would be compromised by the Lot-Split.

Zoning Code Section 11-2-1 defines “land area” as:

“LAND AREA: The area of a lot plus one-half (1/2) or thirty feet (30’), whichever is less, of the right of way of any abutting street to which the lot has access.”

The subject property is unplatted and the only right-of-way in place would appear to be the 24.75’-wide Statutory Sectionline R/W for Yale Ave. The subject property’s legal description and Assessor’s parcel reflect ownership to the Sectionline. If the 24.75’-wide Statutory Sectionline right-of-way was subtracted from the subject property, it would have less than 2.09 acres of lot area, and less than the 2.0 acres lot area required in the AG district. This could be another bulk and area standard from which Variance would be required, and it would be included with any approval of this application, but it is reflexive with the land area standard and so not analyzed separately here.

The land area has different purposes within the Zoning Code, but in the case of unplatted tracts, may be designed to account for the future dedication or acquisition of attendant right-of-way.

Based on the dimensions provided, it appears that the subject property would meet the 200’ minimum lot width standard in the AG district. The lot width is defined by Zoning Code Section 11-2-1 as:

“LOT WIDTH: The average horizontal distance between the side lot lines.”

*The subject property is "L"-shaped, being wider at the back/west end and narrower at the front end. Using the proportional share of widths, Staff calculated the lot width to be approximately 218'. This number may change upon completion of the survey. If it should fall below the 200' minimum required, it would need a new Variance, as that Variance is not explicitly requested or analyzed here.*

*Unnecessary Hardship.* *The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because "Would require a larger tract of ground. Do not want to add more land to this tract at this time. This property is under real estate contract."*

*The Board must find that this argument, or other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting, adequately satisfy this test and standard provided in State Statutes and the Bixby Zoning Code.*

*Peculiar, Extraordinary, or Exceptional Conditions or Circumstances.* *The Applicant responded to the question asking how the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional by stating, "It does not. Zoning is AG for this parcel and when split adjoining property will remain AG."*

*Although the Applicant's statement appears to disclaim peculiar, extraordinary, and/or exceptional conditions or situations, it appears that the tract configuration, for the most part, is intended to correspond to the existing white pipe fence, which contains the residential yard area of the subject property. However, the rear yard line does not appear to correspond to existing site conditions, and may be variable and expandable to achieve the 2.2 acres minimum land area standard. There may be an oil access drive partially lying in the way of farther westward expansion. The survey and/or the Applicant may have additional information on this possibility.*

*To the extent the arguments are found lacking, the Board may wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting.*

*Finding of No Substantial Detriment or Impairment.* *The Applicant claims that the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan because "It is currently zoned AG. It has been zoned AG for many years. Remaining zoned AG should cause no one any problems."*

*The response does not appear to address this test and standard for the Variance requested.*

*Of the several fundamental purposes for imposing minimum lot size and land area requirements, Staff believes the primary reason is for the prevention and mitigation of overcrowding, blight, substandard housing, inadequate sunlight, air, and open space, and other such historic urban problems which originally inspired these standards. Other intended results may have included the maintenance and promotion of aesthetics and property values. Regardless of time period in which constructed, house value is typically corollary to house size, which is itself corollary to lot size. Property values may also be maintained or promoted by the value added to individual properties when located in a neighborhood with regularity, uniformity, and basic minimum standards for lot and house sizes.*

*In sum, the regulations from which the Variance seeks relief were likely originally designed to:*

- 1. Prevent and mitigate overcrowding, blight, substandard housing, inadequate sunlight, air, and open space,*
- 2. Maintain and promote aesthetics,*
- 3. Maintain and promote property values, and*
- 4. Create meaningful open space for private use and recreation and privacy between domestic neighbors.*

*Overcrowding in this area of Bixby does not appear to be the case here, and in any event does not compare to the extreme densities and crowding issues experienced by older, highly urban centers of the late 1800s and early 1900s, when the Zoning laws regulating such bulk and area standards were originally designed.*

*The subject property is located in a small area around the 15300-block of S. Yale Ave. that has a divergent mix of land uses, lot sizes, and substandard lots of record. Abutting to the north of the proposed 2.09-acre tract with the house on it is an approximately 1-acre tract with a telephone exchange and/or other communications service building owned by Bixby Telephone Company. To the north of that is an approximately 2.5-acre agricultural/vacant tract. To the north of that is an approximately 2.5-acre rural residential/agricultural tract at 15230 S. Yale Ave. To the north of that is an approximately 2.5-acre rural residential tract at 15220 S. Yale Ave. Any additional activities which may occur on the rural residential tracts has not been researched here. All of these tracts to the north have less than the 200' of*

*lot width required in the AG district, and typically measure about 165' in width. When considering the enumerated purposes above, Staff believes that the allowance of the proposed 2.09-acre tract would not detract from the neighborhood, which has little regularity or uniformity in land uses or metrics.*

*For minimum lot size and land area standards in AG districts, the intended purposes may also include an estimation of the minimum amount of land needed for effective agricultural operations, and to ensure premature residential development does not encroach established agricultural districts. The proposed 2.09-acre tract is not presently being farmed, and already contains a house, bounded by a white pipe fence establishing a meaningful domestic area, and which house is evidently is no longer used as a farmhouse for the balance of the agricultural land. Thus these additional AG district purposes do not appear to be the case here.*

*For all the reasons set forth above, Staff believes that that approval of the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan.*

*Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the Minimum Necessary to Alleviate the Unnecessary Hardship because "There is not adequate size per real estate contractual terms, to meet necessary standards. Seller is not willing to sell more land on this contract."*

*If approved for Variance, the Board must determine that the difference between the 2.2-acre minimum land area standard and the approximately 2.09-acres proposed, approximately 0.11 acres, would be the Minimum Necessary to Alleviate the Unnecessary Hardship.*

*Staff Recommendation. Except as noted otherwise hereinabove, Staff believes that the arguments provided by the Applicant and Staff appear to substantially meet some of the tests and standards of the Zoning Code and State Statutes. To the extent the arguments are found lacking, the Board may wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting. If the Board should approve, it should be subject to the Lot-Split application resulting in not more than two (2) tracts, the smaller of which shall be not less than 2.05 acres upon the findings of the final survey.*

Erik Enyart noted that he had provided to the Board members, prior to the meeting, copies of the legal description from the surveyor, which he had received today, showing the smaller tract would be 2.088 acres.

Erik Enyart noted that the north-south width seemed to be defined by existing geometries, including the pipe fence, but the east-west dimension [appeared to be unbounded on the west]. Mr. Enyart stated that there was an oil field access drive there that may be an obstacle for farther westward expansion. Mr. Enyart stated that this matter, and other matters where the arguments for justification may be presently lacking, should be explored between the Applicant and Board during the discussion of this item.

Applicant Rebecca Coffee confirmed that there was an oil equipment road behind the barn that was in the way, and noted that the oil field equipment that used it was wider than the road itself. Ms. Coffee expressed that she wanted to "keep the road to the pumpjack," did not want to "give up more land," and that she would "prefer not to do that."

JR Donelson and Erik Enyart clarified with Murray King that an aerial map showing the proposed property and site features could be found on the back page of the agenda packet.

JR Donelson confirmed with Rebecca Coffey that the property was being defined by the existing fences, and that this area of S. Yale Ave. was "rural."

Chair Jeff Wilson and Murray King noted that the amount of Variance being requested was small, a little over 1/10 of an acre, and clarified with Erik Enyart that the Applicant would not even need to come in [to the Board of Adjustment] if the lot/land area was 2.2 acres.

Upon a question with Patrick Boulden, Erik Enyart explained that, per the Zoning Code, the “Land Area” was the lot area plus ½ of the abutting right-of-way. Mr. Enyart stated that the Land Area had certain Zoning Code functions in different contexts, but that for these purposes, it could be seen as allowing the lot area to meet the minimum requirements upon the dedication or acquisition of right-of-way. Mr. Enyart noted that the subject property was unplatted, and so extended to the Sectionline. Mr. Enyart stated that, upon the dedication or acquisition of right-of-way, the typical AG-zoned property having 2.2 acres of Land Area would still have 2.0 acres minimum lot area. Mr. Enyart stated that these standards “work together that way.”

JR Donelson clarified with Erik Enyart that the property met the minimum requirement for lot area [at this time]. Mr. Donelson stated that he had a similar case in Tulsa County, pertaining to an individual’s house at 171<sup>st</sup> St. S. and Yale Ave. where, if the street was widened, they would have to tear the house out.

Larry Whiteley asked if the property extended to the center of the road. Erik Enyart stated that the property extended to the Sectionline, which more or less corresponded to the middle of the roadway.

There being no further discussion, Larry Whiteley made a MOTION to APPROVE BBOA-597 subject to the Lot-Split application resulting in not more than two (2) tracts, the smaller of which shall be not less than 2.05 acres upon the findings of the final survey. Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, Whiteley, Donelson, & Mullins
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	5:0:0

ADJOURNMENT

Chair Jeff Wilson asked to entertain a Motion to Adjourn. Darrell Mullins made a MOTION to ADJOURN. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Wilson, Whiteley, Donelson, & Mullins
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	5:0:0

Meeting was Adjourned at 6:09 PM.

APPROVED BY:

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Chair

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Date

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City Planner/Recording Secretary